PART IV

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Section 2-B

NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS AND ORDINANCES.

NOTIFICATION.

No. L.S 4420—L.W. 296-50-2 dated Bangalore, 21st March 1951.

In pursuance of Section 17 of the Industrial Disputes (Central) Act, 1947 (Act No. XIV of 1947), His Highness the Maharaja of Mysore is pleased to publish the following Award of the Industrial Tribunal, Bangalore, in the industrial dispute between the Management of the Mysore Vegetable Oil Products, Ltd., Bangalore, and the Labour Association thereof.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Secretary to Government,
Law Department.

BEFORE THE INDUSTRIAL TRIBUNAL, BANGALORE

Monday, the 5th day of March 1951.

PRESENT

Rajadharmaprasakta
SRI A. R. NAGESVARA IYER, B.A., B.L.,
Chairman

and

Rajadharmaprasakta
SRI T. SINGARAVELU MUDALIAR, B.A., B.L.,
Member.

No. A.C. 1 of 1950-51.

First Party :

The Mysore Vegetable Oil Products Labour Association, 50, Cottonpet, Bangalore City.

(Represented by Sri G. V. Ramachar, Advocate.)

Versus

Second Party :

The Mysore Vegetable Oil Products, Ltd., Platform Road, Bangalore City.

(Represented by Messrs. S. D. Ganesha Rao and E. V. Mathew, Advocates.)

AWARD

This is a reference made by the Government of Mysore, under Section 10 (1) (c) of the Industrial Disputes Act, 1947, under the following circumstances :—

On 27th July 1949, the President of the Mysore Vegetable Oil Products Labour Association gave a notice of change to the General Manager of the Vegetable Oil Products, Ltd., Bangalore, under Section 10 (2) of the Mysore Labour Act, 1942, as follows :—

"In view of the continuous increase in the prices of the necessary supplies and services, the employees have suffered and are still suffering hardships even in their day-to-day maintenance. The present scale of dearness allowance is totally inadequate and therefore needs immediate revision. The employees therefore demand :

that the present scale of dearness allowance should be raised adequately to meet completely the rise in the cost of living. We desire that the scale of dearness allowance should be revised as follows :—

At present for the purpose of payment of dearness allowance, workers are divided into three categories. Those workers drawing up to Rs. 25 per mensem get Rs. 25 per mensem as dearness allowance; those drawing above Rs. 25 and up to Rs. 50 get Rs. 27-8-0 per mensem; and those drawing above Rs. 50 get Rs. 30 per mensem.

(1) This method should be discontinued and all workers should be paid a uniform dearness allowance of Rs. 32-8-0 per mensem each.

(2) The employees also demand that the above demanded scale should come into effect from 1st July 1949.

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(3) The employees have been given under certain conditions a bonus equal to one month's pay each for the year 1948-49. For the last four or five years workers were given in total two months' pay as bonus each year. The employees demand that for year 1948-49 also all workers should be paid an equal to 1/6th of their earnings excluding dearness allowance unconditionally."

Copies of this notice were sent to the Commissioner of Labour, the Registrar of Associations in Mysore, and the Assistant Commissioner of Labour, Bangalore Division.

The Comissioner of Labour could not bring about a settlement between the parties with regard to demands 1 and 2, though the Association withdrew demand No. 3. He therefore referred the matter relating to demands 1 and 2 under Section 10 (3) of the Mysore Labour Act, to the Chief Conciliator for initiating conciliation proceedings. Conciliation proceedings which took place on 8th March 1950 before the Chief Conciliator also ended in failure, as he could not bring about any agreement between the parties. He therefore reported the matter to Government under Section 12 (4) of the Mysore Labour Act, and the report was duly published by Government in the *Mysore Gazette*.

On 5th April 1950 a meeting was held by the Hon'ble Minister for Law and Labour to bring about a settlement between the Management and the Labour Association of the Mysore Vegetable Oil Products, Ltd. Among those who attended the meeting were the General Manager of the Company, the Commissioner of Labour, the Assistant Labour Commissioner, the President of the Vegetable Oil Products Labour Association, three office-bearers of the Association and a representative of the Indian National Trade Union Congress. During the discussion, the General Manager explained to the Minister that the scales of dearness allowance given by the Vegetable Oil Products, Ltd., were much higher than those given by other concerns and that therefore there was no justification for any further increase. There was then discussion on the possibility of the dearness allowance being fixed on the cost of living index figure in Bangalore as published by the Government every month at two and half annas per point above 100.

The General Manager was not agreeable to this suggestion and seems to have also said that the vanaspathi

industry was passing through a crisis on account of the propaganda that was being carried on by certain interested parties for the complete banning of hydrogenated vegetable oils and the whole future of the industry was extremely uncertain, that owing to the soaring prices of groundnut oil and the uneconomic controlled selling price fixed by Government for vanaspathi, the Company was at present losing as much as about Rs. 65 for every ton of vanaspathi produced and sold, that there was a possibility of the Factory having to close down in the near future, that this Company was facing very keen competition of other factories recently established in Mysore and Madras States and that, therefore, the Company could not afford to give any increase in the dearness allowance. The General Manager however undertook to place the matter before the Board of Directors and duly communicate their decision. At a meeting of the Board of Directors held on the 26th April 1950, the view expressed by the General Manager before the Hon'ble Minister was concurred with and the view of the Board of Directors was communicated to the Law Secretary with a covering letter on the 29th of April 1950 (*vide* Exhibit XIII).

While the matter relating to this dispute to which the provisions of the Mysore Labour Act were applicable was, thus, pending, Notification No. L. D. 570—Legis, 2-50-20, dated Bangalore, 27th May 1950, was issued and it was published in the *Mysore Gazette* (Extraordinary) dated Monday, May 29th, 1950. Under the said Notification, the Government of Mysore ordered that the Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950), published in the *Gazette of India,* dated 23rd May 1950, be republished in the *Mysore Gazette* for general information. Section 34 of the said Act provides that the Industrial Disputes Act of 1947 (XIV of 1947), shall be amended in the manner specified in the schedule. The first item in the schedule runs as follows :—

"For Sub-Section (2) of Section 1, the following Sub-Section shall be substituted, *viz.*,

'(2) it extends to the whole of India except the State of Jammu and Kashmir'."

Whereas Act XIV of 1947 originally extended to the whole of British India, the effect of this amendment is that it extends now to the whole of India including Mysore. His Highness the Maharaja of Mysore, on the 30th of May 1950, passed Order No. L.S. 675-85--L.W. 71-50-6, in exercise of the powers conferred by Sub-Section (1) of Section 7 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), constituting this Industrial Tribunal and under Sub-Section (1) of Section 10 of the said Act, the following dispute was referred to this Tribunal for adjudication :—

"Regarding the Mysore Vegetable Oil Products, Ltd., Bangalore ;

(*a*) the workers demand for :—

(1) an enhancement of the present scales of dearness allowance with reference to the rise in the cost of living index ; and

(2) giving effect to the enhanced scales of dearness allowance from 1st July 1949."

Parties have filed statements and rejoinders were allowed to be filed since the parties were not accustomed to the new Act and they are mostly prolix and unnecessarily argumentative and we, therefore, refer only to the salient allegations therein.

In the statement filed by the Labour Association, it is alleged that :

"after the failure of the conciliation proceedings, a conference of the two parties was convened by the Minister for Labour where an overture was made on behalf of the first party that the question of dearness allowance may be allowed to be determined by the cost of living index number prepared by the Government of Mysore calculated at the rate of Re. 0-2-6 per mensem per point of rise over 100 in the cost of living index number ;

that despite 'the reasonableness and the rationality' of the proposal, the offer was negatived which ultimately eventuated in a peaceful and legal strike."

The reasons for claiming dearness allowance based on the cost of living index are stated to be :—

(1) that the dearness allowance now granted is inadequate ;

(2) that it does not accurately and precisely reflect the true rise in the cost of living ;

(3) that it is based on no scientific ascertainment ;

(4) that the actual rise be ascertained by refrcrence to the cost of living index number published by the Government and that on this basis dearness allowance to be calculated at the rate of Rs. 0-2-6 per point of rise in the cost of living index number over 100 per month.

It is further pointed out that of the three scales of dearness allowance paid to the workers, who are about 103 in number, about 70 of them are receiving wages from Rs. 0-11-0 to a little less than Re. 1-0-0 per day and therefore are receiving dearness allowance at the lowest rate, *viz.*, Rs. 25 a month.

It is further alleged that on account of the war, the cost of living index has risen high and there has been no corresponding rise in the wages of workers, and therefore the present wage level is far below the price level and this has affected the workers adversely to a large extent; that the wages prevailing at present have been arbitrarily fixed by the employers and are not based on any rational basis; that the cost of living index numbers published by the Government of Mysore reveal that there has been a continuous rise in the cost of living; that even these numbers do not indicate the actual rise in the cost of living and that there is no possibility of the cost of living coming down.

The principles on which the dearness allowance is to be fixed are stated to be:

(1) the ensuring of a fair minimum standard of living to every worker by which he is enabled to be useful to himself, to his family, to his employers and to the Society to which he belongs;

(2) the neutralising completely and effectively of the increase in the cost of living; and

(3) the existing financial position of the industry and also the fact that dearness allowance is not an *ex-gratia* payment.

It is urged that tested by these standards, the present scales of dearness allowance are too inadequate to meet the high cost of living. It is further urged that the present scales are not the result of any adjudication, nor based on any scientific appraisal of the actual increase in the cost of living, that at least a sum of Rs. 100 in the shape of wages and dearness allowance would be required for a worker in order that he may meet the cost of living for himself and his family.

With regard to the quantum of dearness allowance, it is urged that a sum of at least Rs. 35 a month would be necessary to meet the needs of the workers and to neutralise to the full extent the increase in the cost of living and that the rational method of ascertaining the dearness allowance would be to link it to the cost of living index number published by the Government of Mysore, that the dearness allowance should be ascertained at the rate of Rs. 0-2-6 per point of rise over 100, and that based on this principle the dearness allowance would amount to Rs. 32 and odd per mensem.

It is also contended that the Company could afford to pay dearness allowance at Re. 0-2-6 per point of rise over 100 as it is in a sound financial condition having a reserve exceeding Rs. 7 lakhs and that the net profit earned during the year ending June 1949

was Rs. 2 lakhs out of which a little over one lakh of rupees were distributed as dividends at the rate of Rs. 17-8-0 per share as pointed out by the Chief Conciliator. The financial prosperity of the Company, it is urged is as much due to the fruits of labourers' strenuous work and efforts as it is the result of invested capital of the Company and that therefore the employers should not grudge to share the prosperity with the workers.

Regarding the second demand, it is alleged that since the notice of change was given on the 27th of July 1949 it is only proper that the claim for enhanced dearness allowance at Rs. 0-2-6 per point should be given retrospective effect from 1st of July 1949.

The material portion of the statement of the management is to the following effect :—

"The Company has from the beginning been alive to the hardships which its employees like other sections of the population are put to owing to the rise in the cost of living and has all along given dearness allowance at adequate rates and enhanced them from time to time on their own initiative with reference to prevailing conditions without representation from the employees. Refering to the last few years, in January 1945 the rates of dearness allowance paid were from Rs. 15 to Rs. 20 per mensum ; in July 1946 at Rs. 17-8-0 to Rs. 25 per mensem ; in July 1947 at Rs. 22-8-0 to Rs. 27-8-0 per mensem ; in September 1948 the workers made a representation that the dearness allowance should be enhanced to a uniform rate of Rs. 30 per mensem to all grades of workers. This request was turned down by the Board of Directors in November 1948, but the Board enhanced the rates on its own initiative from 1st April 1949 and fixed the present rates of Rs. 25, Rs. 27-8-0 and Rs. 30-0-0 per mensem, fully expecting that these rates wihch were substantially higher than those allowed by Government or other industrial concerns of equal standing, that they have done everything possible for their workers and were greatly surprised that within three months a notice of change was given by the Association for further enhancement to the uniform rate of Rs. 32-8-0 per mensem."

With regard to the allegation by the Association that at the Conference convened by the Hon'ble Minister for Labour, an overture was made on behalf of the workers that the dearness allowance be fixed on the cost of living index at Re. 0-2-6 per point in excess of 100 points, it is urged that :

"there was no conference between the parties nor was any proposal or overture made by the representatives of the workers. What happened was that the Hon'ble Minister for Labour requested the General Manager to attend a meeting in his chambers for a discussion of the matter on 5th April 1950. The Hon'ble Minister first asked why the Company could not pay dearness allowance at

Rs. 32-8-0 per mensem to all its workers as demanded and subsequently suggested that the dearness allowance may be paid as in the case of the big textile mills in Bangalore with reference to the cost of living index at Rs. 0-2-6 per point above 100. The workers appeared to welcome this suggestion but the General Manager could not commit the Company to an acceptance of the proposal. The Company could not take Hon'ble Labour Minister's suggestion as a considered proposal since the Government have not given any indication of proposing a similar system to other employees nor are adopting it in any of the several industrial undertakings owned or managed by them. The workers on the other hand who from the beginning of this dispute were insisting on a fixed rate of dearness allowance of Rs. 32-8-0 per mensem have now shifted their ground and have in their statement made the demand which they had never before made to the Company that the dearness allowance should be regulated by the cost of living index and fixed at Rs. 0-2-6 per point above 100."

With regard to the general and theoretical considerations propounded in the statement of the Association it is urged :

'that it is not industrial workers only who have to face the prevailing inflation and high prices, other large sections of population like Government employees, pensioners, persons with fixed money, incomes, etc., suffer equally. Industrial workers alone cannot expect their employer to undertake the neutralising completely and effectively the increase in the cost of living' and that there cannot be a common ground for the two parties to negotiate when it is urged in the written statement of the Association that the minimum wage required by a worker to ensure a fair minimum level of existence for himself and his family should be not less than one hundred rupees.'

The Company further pleads as follows :—

The Management has always taken note of the abnormal fluctuations in the cost of living in fixing the remuneration for its workers.

The Management has raised during the past few years the minimum wage by more than 50 per cent and are now giving dearness allowance at rates higher than what the Government or any other industrial concernes in the State (except the big textile mills) pay. (The rates given by various industrial concerns are given and it is unnecessary to mention them here, except to state that they range from Rs. 12 to Rs. 24-9-9).

The Mysore Vegetable Oil Products Co., Ltd., was until a few years ago the only firm in the Mysore State engaged in the business of manufacturing refined oils and vanaspathi. During the last few years, new companies have been started for the manufacturing of the same class of products, and the Company is meeting keen competition from these three factories. These factories pay their workers dearness allowance at rates appreciably lower than those

in force in this Company, and, if, therefore, this Company is now to increase the cost of production still further it will be quite unable to meet the competition.

The Company prefers to have a graduated scale of dearness allowance with reference to the basic pay of the employees instead of a uniform rate as demanded by the Association as it is reasonable and has in fact being adopted by Government and by many other industrial concerns. This is preferable to the method of fixing dearness allowance based on the cost of living index numbers which as stated by the Association cannot be regarded as an accurate gauge of living conditions. To pay dearness allowance at rates varying from month to month, places both the employer and the employee in constant uncertainty in regard to their budgets of income and expenditure. The textile mills appear to have adopted this system on considerations applicable to the Textile industry in the whole of India. If as the Hon'ble Minister for Labour remarked at the meeting referred to above that sooner or later the Government would insist on such a principle being adopted by all industrial concerns, it is submitted that this Company will have to adopt it when such a contingency arises; but even if such a system comes into vogue it does not follow that the rate per point must be Rs. 0-2-6, the rate will have to be fixed in a reasonable manner and with due reference to actual conditions. It is only the three big textile mills in Bangalore that pay at Re. 0-2-6 per point. The Krishnarajendra Mills at Mysore pay at a lower rate.

With regard to the claim made for an enhancement of dearness allowance basing it on the prosperity of the Company and the large profits earned by it, it is urged :

"that the rates should not be enhanced merely because the Company has made good profits. Rates of dearness allowance depend on a right appreciation of the cost of living independently of the question whether the Company makes large or small profits or works at a loss. If good profits are made by the Company, the workers get bonus. The workers' demands based upon the prosperity of the Company is due to the wrong and extravagant ideas they have of the benefits derived by the share-holders of the Company and also to the wrong statement made by the Chief Conciliator in his report published in the *Mysore Gazette*, dated 23rd March 1950, that the Company has paid to its share-holders last year a dividend of Rs. 17-8-0 per share or 175 per cent of their capital. This is a mis-statement by the Chief Conciliator. He was given the information that the Company paid to its share-holders last year a dividend of 17½ per cent (Rs. 1-12-0 per share of Rs. 10). He has put it down in his report that the dividend was Rs. 17-8-0 per share and although the error was pointed out to him as soon as the Company saw the report, he has not so far corrected the error."

"The Chief Conciliator has referred in his report to the reserve of Rs. 7 lakhs held by the Company. He has not realised that this reserve has been mostly reinvested in the industry in the shape of additional buildings and machinery. The replacement

of plant bought at pre-war prices will cost the Company several lakhs in excess of the provision in the depreciation fund and the reserves are really inadequate for this purpose.

"Although the position of the Company has been quite satisfactory, conditions have since changed, vanaspathi the main product of the Company is subject to price control while the raw materials like the groundnut oil is not subject to price control and has in recent months gone up in price to an unprecedented level and is still going up while there has been no corresponding increase in the price of vanaspathi. This fact along with the fact that there has been keen competition of new factories recently opened in Mysore and Madras States has resulted in the Company's product being sold at unremunerative prices. On this account the Company had to close down the factory for four weeks and suspend the production of vanaspathi for ten weeks more, in addition to the period of reduction of production due to the curtailment of electric power. Besides these difficulties, the very existence of the vanaspathi industry is threatened by the proposal now before the Central Legislature to ban manufacture of vanaspathi on the ground that it interfers with the prosperity of the ghee industry in the country. Having regard to all these difficulties and gloomy prospects of the industry, the management has a right to expect the fullest co-operation of its workers. For the above reasons the management prays that this Tribunal be pleased to reject the demands put forward by the workers in the original notice of change or in the statement."

The Labour Association filed a rejoinder that :

"they did not shift the ground of their demand after the conference with the Minister for Labour; that the demand for dearness allowance at the rate of Rs. 32-8-0 per month was not arbitrarily put in, and that Rs. 32-8-0 was quoted as is roughly worked out at the rate of Re. 0-2-6 per mensem per point of rise over 100 in the cost of living index number; and that dearness allowance should be paid so as to neutralise the rise in the cost of living as the cost of living index figure is the only means available at present to assess the rise in the cost of living. It is therefore urged that it was under these circumstances that they accepted the suggestion to link dearness allowance with the cost of living index.

The other allegations in the rejoinder do not cover any new ground but reiterate the allegations in the first statement.

The Management has also filed a rejoinder :

"controverting the allegation that Rs. 32-8-0 was claimed on the basis of the cost of living index number at the rate of Re. 0-2-6 a pont. It is urged that at the time of issue of notice of change the cost of living index number was 300.4 for May 1949; that at Re. 0-2-6 per point rise it works out at Rs. 31-5-0 only; that either before the issue of notice of change and up-to-date, the

index figures for Bangalore have never reached a point that at Re. 0-2-6 yield a product of Rs. 32-8-0. The Management therefore asserts that the Association has shifted the ground. The other allegations are merely reiteration of the original statement."

In an additional statement filed by the Association it is alleged :

"that under the various awards of the Industrial Tribunals in the country the formulæ for securing the real minimum wage for the worker is; minimum wage *plus* dearness allowance in accordance with the cost of living index number, providing full neutralisation; that the Management has been paying on an average a basic wage for the majority of workers of Rs. 20-11-6; and that the minimum wage payable to workers will be very much higher than this." It is further stated that the Central Pay Commission fixed the minimum basic pay for the lowest grade of workers for the whole of India at Rs. 30 per mensem excluding the payment of Rs. 7 as House Rent Allowance; that the management has not even provided for this and, therefore, if the dearness allowance is not paid in accordance with the cost of living index number, the worker will be deprived of his real wages; and that the notice of change also refers to the cost of living though the word "index" is omitted which does not make any difference.

In this additional statement the names of firms who are paying dearness allowance on the cost of living index number are mentioned.

In answer to the last point, the Management has urged :

"that the firms mentioned by the Association pay dearness allowance on an All-India basis or at the same rate as the parent firms which are situated in Madras are paying." It is further pointed out that the Association did not mention at all in the notice of change the rate of Re. 0-2-6 per point rise.

The following issues were framed :—

(1) Is the dearness allowance to be enhanced to Rs. 32-8-0 as claimed by the Labour Association in the notice of change; or

(2) is the dearness allowance to be based on the cost of living index at the rate of annas two and pies six per point rise as stated in the written statement of the Labour Association;

(3) is the Labour Association debarred from claiming the dearness allowance as in issue No. 2;

(4) are the present rates of dearness allowance paid by the management inadequate and if so what is the rate of dearness allowance to be fixed;

(5) from what date is the enhancement of dearness allowance if any to be paid;

(6) to what relief are the parties entitled;

Parties adduced no oral evidence and relied only on the documents filed.

Issue No. 3, *viz.*, "Is the Labour Association debarred from claiming dearness allowance as in issue No. 2," has got to be first considered.

From the notice of change extensively quoted above it will be seen that the Association has first referred to the hardships suffered by the employees in their day-to-day maintenance on account of the rise in the cost of living and, asserting that the present scale of dearness allowance is totally inadequate, demands that dearness allowance should be raised to meet completely the rise in the cost of living and therefore desires that the present scales of dearness allowance should be discontinued and all workers should be paid a uniform dearness allowance of Rs. 32-8-0 per month each. Although it is mentioned in the notice that dearness allowance should be raised to meet completely the rise in the cost of living, it is not stated that the dearness allowance should be calculated at Re. 0-2-6 per point rise nor is any mention made about the cost of living index published by the Government. There is therefore much force in the contention of the management that the demand as put forward in the statement of the Association is not the same as the demand made in the notice of change.

The next contention of the Association is that the sum of Rs. 32-8-0 claimed by the Labour Association represented the amount of dearness allowance calculated at the rate of Re. 0-2-6 per point rise over 100 on the cost of living index at the time of the demand. But, as pointed out by the management in their statement, at the time of the issue of the notice of change the cost of living index number was 300.4 for May 1949 and calculating at Re. 0-2-6 per point rise over 100, the dearness allowance works out at Rs. 31-5-0 only. The contention of the Association is not therefore tenable.

The next contention urged for the Association is that at the conference held on 5th April 1950 in the presence of the Hon'ble Minister it was suggested that dearness allowance should be based on the cost of living index number at Re. 0-2-6 per point rise as is being paid by the Textile Mills; that this demand was made on behalf of the Labour Association and therefore must be deemed

to be the demand of the Association. In answer to this the management contends that this cannot be deemed to be the demand of the Association but was only a suggestion made at the conference which was not accepted by the management. It will be seen from Exhibit XIII that what was raised for discussion at the conference was only a suggestion to explore the possibility of a settlement between the parties without recourse to a Tribunal and it could not therefore be put any higher. It is also pertinent to note that among those present at the conference it was only the Labour Commissioner that stated that the Company could well afford to pay dearness allowance on the basis so suggested and none of the representatives of the Association mentioned anything about this principle.

But the Association has relied upon another statement in Exhibit XIII to support the plea that it was a demand of the Association. When the General Manager stated to the Minister that he would place his views before the Board at its next meeting which was likely to be held within the next fortnight or so, the representative of Indian National Trade Union Congress stated that it was very necessary that the final decision of the management should be communicated as early as possible because, if the management could not accept the suggestions of the Minister, the Association would have to consider what further steps should be taken, as, in the event of the Association deciding to call a strike, it would have to do so within two months of the date of the publication of the Chief Conciliator's report in the Gazette, *viz.*, by 23rd May 1950 in accordance with the Mysore Labour Act.

With regard to this contention it has to be pointed out that the representative of the Indian National Trade Union Congress is not a member of the Labour Association and none of the members of the Labour Association, *viz.*, the President and three other Office-bearers present, said anything with regard to the suggestion of the Minister and under the Mysore Labour Act the representative of the Indian National Trade Union Congress cannot represent the Association although, as recorded in Exhibit XIII he may be leading the Labour Association. In our opinion, therefore there is much force in the contention that the demand put forward in the statement cannot be considered to be a definite demand by the Labour Association.'

In the course of the argument it was also urged for the Association that though the suggestion made at the conference may not be considered to be a demand by the Association, yet it must be deemed to have been considered by the Government as an 'apprehended dispute' within the meaning of Section 10 (1) (*c*) of the Industrial Disputes Act and that, therefore, the reference made by Government to this Tribunal must be construed to relate to enhancement of present scales of dearness allowance based on the cost of living index at Re. 0-2-6 per point rise over 100. But as was rightly urged for the Management, the Government order constituting the Industrial Tribunal is for the adjudication 'of certain *existing* industrial disputes' and not 'an apprehended dispute'. Moreover, as the rate of Re. 0-2-6 per point rise is not mentioned in the notice of demand, the existing dispute referred for decision can only be taken to be the one contained in the notice of demand.

When the Industrial Disputes Act, 1947 was introduced into Mysore, the Mysore Labour Act was in force. Under Article 254 of the Constitution of India, the effect of the introduction of the new Act is that the law made by the Mysore Legislature to the extent to which it is repugnant to the law made by the Centre, is void. So much of the Mysore Labour Act and the Rules thereunder as are not repugnant to the provisions of the Industrial Disputes Act continue, therefore, to be in force in Mysore. The procedure to be followed for making a demand is prescribed by Section 10 of the Mysore Labour Act and the Rules framed thereunder, and they are not repugnant to the provisions of the Central Act. Consequently, the 'existing disputes' referred to in the Government Order constituting the Tribunal must be taken to be those contained in the notice of change. The Government Order does not also mention that the dispute referred to the Tribunal was an 'apprehended dispute'.

The decision reported in 1950 Dominion Law Reporter, Volume V, page 92, is relied upon by Mr. Ramachar for the position that, even though the notice of change given by the Association did not demand that dearness allowance should be given on the basis of the cost of living index number at Re. 0-2-6 per point rise, yet the Government has jurisdiction to refer an industrial dispute to an Industrial Tribunal, despite the fact that

such dispute may not have arisen as a result of the notice of change. That was a case under the Bombay Industrial Relations Act and the Judgment of Tendolkar J, was based upon the construction of Section 73 of that Act. Under that section, notwithstanding anything contained in that Act, the Provincial Government may at any time refer an industrial dispute to the Industrial Court if, on report made by the Labour Officer or otherwise, it is satisfied that :

(1) by reason of the continuance of the dispute, a serious outbreak of disorder or a breach of the public peace is likely to occur OR a serious or prolonged hardship to a large section of the community is likely to be caused or the industry concerned is likely to be seriously affected or the prospects for scope for employment therein curtailed ;

(2) the dispute is not likely to be settled by other means OR

(3) it is necessary in the public interest to do so.

The opinion of Tendolkar J, is that the provisions of Section 73 override the provision of Section 42 of that Act under which notice of change is necessary with regard to an industrial dispute.

There is no provision in the Mysore Labour Act corresponding to Section 73 of the Bombay Industrial Relations Act giving jurisdiction to the Government to refer an industrial dispute under circumstances referred to in Section 73 of that Act. We are therefore of the opinion that this decision cannot be made applicable to the present case. We may in this connection refer to the decision reported in Volume I of the Labour Law Journal—August 1949—page 407—and to the ruling of the Industrial Tribunal in Bombay at page 419 where it is stated as follows :—

"In the course of the statement of claim, however, the Union has asked for an increase over the scale of dearness allowance asked for originally. As to this latter, I am afraid, it is not open to me to consider it, since it involves a question of jurisdiction in the sense that the Adjudicator is invested with jurisdiction to adjudicate on the demand referred to him and not to go beyond it. The Union must therefore be confined to the original demand, etc."

For the foregoing reasons our finding on Issue No. 3 is in the affirmative.

The questions that now arise for consideration are those raised in the first and fourth issues, *viz.*,

"Is the dearness allowance to be enhanced to Rs. 32-8-0 as demanded by the Labour Association in the notice of change;" AND

"Are the present rates of dearness allowance inadequate, if so, what is the rate of dearness allowance to be fixed."

We have stated in the previous paragraphs the several reasons given by the Labour Association to support their claim for increased dearness allowance. In brief they are that the wages now paid to the workers are too low compared to the cost of living index at present and that the rates of dearness allowance paid to the workers along with the wages paid are too inadequate to meet the present high cost of living. It is stated that the wages fixed for the workers in 1939 and those now paid were not based on any principles nor were they fixed by any Industrial Tribunal. It is therefore claimed that the minimum wage of the worker that ought in all fairness to be paid to-day should be taken into consideration and the dearness allowance fixed so that it might along with that wage meet the living cost of the workers.

Various authorities are relied upon for that position. The following passage at page 203 in the book entitled "The Indian Working Class—by Radhakamal Mukherjee" was strongly relied upon by Mr. Ramachar:—

"It is necessary, in the interests of industrial peace and the maintenance of efficiency, standard of living, and morale of all workers in all war time, that wage boards like those in Great Britain and many other industrial countries should be established in the principal industrial centres in India. These wage boards in the first place should guarantee a minimum living wage for the lower grade of workers in the different industrial centres. Thus for Northern India the basic amount of Rs. 30 calculated as the living wage at the pre-war price level will have to be increased in proportion to the rise of index numbers of the cost of living."

The same author has stated at page 132:

"There are two broad considerations which enter into the determination of minimum wage-rates in modern countries. One basic consideration is that every normal workers shall be paid a wage which is adequate 'to promote health, efficiency and general well-being' to use the phrase of the Fair Labour Standards Act

of 1938, U.S.A. and to enable him to maintain himself and his family in accordance with such standard of living as may be reasonable in relation to the nature of his occupation. There are therefore minimum rates below which the wage ought not to be allowed to fall. The second consideration is that workers should be paid at rates more or less equivalent to the rates offered to workers in comparable occupations. Thirdly, the rates should be such as what the conditions of the trade or industry permit to pay to the workers. These considerations are to some extent inter-dependent. The human needs of labour cannot be interpreted without reference to national income and the customary earnings that are related to the economic wages of the industry. Thus practical considerations in respect of the economic position of the industry, costs of production, output and profits as well as national income per capita inevitably enter into the determination of the normal and reasonable needs of workers by wage fixing bodies."

The above passage itself shows that factors other than that of the need of the worker have also to be taken into consideration while fixing the wages of a worker.

It is therefore urged for the Management that the industrial workers alone cannot claim to be placed in point of their wages on a more favourable position than that of the other sections of the community and whether the capacity of the industry as a whole is such as to meet the requirements of a living wage should also be taken into consideration.

In another paragraph at page 133 of the same volume the author says :

"On the other hand sub-marginal industrial undertakings which cannot afford to pay living wages to the workers have no right to exist ; and the sooner these are forced out of the field the more surely the standards of decent living and working conditions established themselves in the country."

The idea may perhaps be applicable to undertakings in a well-established industry like the Textile Industry in India, but in our opinion, they cannot be made applicable to industries which are newly started and are attempting to establish themselves and stand on their own feet. Particularly at the present time when industries in India are sought to be started and firmly established and when they are to meet competitions from other countries, it would be detrimental to the interests of the country if this principle is adopted. The workers in such industries should realise that they should also help the management

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to see that the industry is made to establish itself. Otherwise the workers themselves will be loosers if the industry is forced to be closed down.

Reliance is also placed upon the Report of the Central Pay Commission at page 13 where it is said:

"We accordingly think that it would be safe to recommend a basic salary fixed on the assumption that prices may stabilise at a level which will give a cost of living index somewhere between 160 and 175 taking the pre-war index to be 100. So long as the cost of living continue to be substantially higher, some system of dearness allowance must continue in operation."

Again at page 33, it is said:

"After some discussion the majority of the members agreed that Rs. 55 per mensem (made up of basic salary plus dearness allowance) would be a fair minimum wage at a cost of living index of 260. Later it is stated: "It was next agreed that the sum of Rs. 55 might be split up into Rs. 30 as basic pay and Rs. 25 as dearness allowance." It is also said: "We are convinced that in the best interests of the country and of public service it is necessary that the lower ranks of the services should be placed in a position in which their total earnings, *i.e.*, the aggregate of their pay and dearness allowance will suffice to provide a reasonable subsistence for them." It will be observed that the basic salary of Rs. 30 is fixed on the footing that the normal index ranges from 160 to 175 taking the pre-war index to be 100 and Rs. 25 dearness allowance is fixed on the basis that the index is 260. With regard to unskilled labour on page 124 in para 222, it is said: "We have therefore, come to the conclusion that a minimum wage standard should be adopted by the State and that a scale of Rs. 30 to Rs. 35 would be the appropriate basic remuneration for unskilled labour on the basis of a cost of living index of 160 to 175."

It is only in the Textile Industry that a minimum wage of Rs. 26 for 26 days of working and dearness allowance based on the cost of living index per point rise over the normal of 100 is given. The rate per point rise also varies from place to place in the Presidency of Bombay according to local conditions but for other industries different rates of basic wages and rates of dearness allowance are paid.

In the United Provinces, the report of the Labour Enquiry Committee contains this passage:

"Our experience of the conditions ruling in different centres and industries gained during the enquiry has led us to the conclusion that the industrial units in the Province can be conveniently put into the following three categories for the purposes of granting dearness allowance."

That Committee recommended a monthly rate of three annas per point of increase over pre-war cost of living index for "A" category (under which fell Cotton textile mills in Cawnpore and Lucknow, woollen mills and firms manufacturing vegetable ghee), two and half annas for "B" category (under which fell cotton textile mills outside Cawnpore and Lucknow, iron and steel companies, tanneries in Cawnpore, all units engaged in jute, sugar, oil, glass industries, etc.), and two annas for "C" category (under which fell all other units of industries). This shows that a uniform rate of dearness allowance was not recommended for all industrial workers in the United Provinces but that rates varied according to the nature of the industry, the place where they were located and the position of the industry.

It may be pointed out at the outset that in the Mysore Vegetable Oil Products Co., Ltd., there is no definite wage structure or wage scales and there are no fixed increments. The minimum wage paid to an unskilled workman in 1939 was annas five per day or Rs. 8-2-0 for 26 working days. In 1950 an unskilled worker is being paid 11 annas per day or Rs. 17-14-0 for 26 days and a dearness allowance of Rs. 25 per mensem. A semi-skilled worker was started on 6 annas per day or Rs. 9-12-0 for 26 days in 1939 but now he gets Re. 0-12-0 per day or Rs. 19-8-0 for 26 days and a dearness allowance of Rs. 25 per mensem. Skilled workers who were started on higher wages than Re. 0-5-0 and Re. 0-6-0 in 1939 are now earning wages ranging from Re. 0-14-9 to Rs. 2-4-9 and together with dearness allowance they are earning from Rs. 55 to Rs. 90 and odd. The Company started paying dearness allowance from the year 1941 at rates ranging from Rs. 1-8-0 to Rs. 12-8-0 till the year 1944 and subsequently in January 1945 they were paying dearness allowance at rates ranging from Rs. 15 to Rs. 20 per mensem; in July 1946 at Rs. 17-8-0 to Rs. 25 per mensem; and in July 1947 at Rs. 22-8-0 to Rs. 27-8-0 per mensem and from 1-4-1949 they have been paying at the rate of Rs. 25 per mensem to those workers earning up to Rs. 25 per mensem, Rs. 27-8-0 per mensem to those earning wages above Rs. 25 and up to Rs. 50 per mensem, and Rs. 30 to those earning above Rs. 50 per mensem.

In the written statements filed by the Labour Association it is not stated on what ground dearness allowance at a uniform rate of Rs. 32-8-0 per mensem was demanded. But in the course of argument, while substantiating the demand for payment of dearness allowance at the rate of Re. 0-2-6 per point rise above 100, it was urged that the method of calculating the dearness allowance is to determine the average wage of a worker in this Company and to neutralise that wage by rate of dearness allowance which would meet the cost of living, though not cent per cent, but at a somewhat lower percentage. Applying this principle it was pointed out that out of the 103 workers employed in this firm:—

69 workmen were earning at Re. 0-12-9 each (average) ..	Rs. 54-15-9	in all per day
31 workmen were earning at Rs 1-3-9 each (average) ..	Rs. 38-4-3	,,
and 3 workmen were earning at Rs. 2-1-10 each (average) ..	Rs. 6-5-6	,,
	Total Rs. 99-9-6	

This amount divided by 103 works out roughly to Re. 0-15-6 per day or Rs. 25-3-0 for 26 days. This average wage it was urged should be taken as basic wage for the index of 100 which is taken as normal in 1939. The index in July 1949 was 302.7. So, the difference is roughly 200 points. In order to fully neutralise it on this basis, the workmen must be paid Rs. 50 as dearness allowance which works out at Re. 0-4-0 per point rise. But the demand being Re. 0-2-6 per point the percentage of neutralisation is stated to be 62.5 per cent.

Although this principle was adopted in the earlier Bombay decisions it was not accepted in some of the later decisions of the Industrial Courts in Bombay. In the Industrial Court Reporter—January 1949—at page 37, it is said:

"It appears to me the contention of the Mills is not well-grounded. In Bombay until the recent award of February 1948, dearness allowance used to be granted on the basis of 76 per cent neutralisation for the rise above the average basic wage and not for the rise above the minimum basic wage. By the recent award that mode of calculation has been revised and dearness allowance

is calculated on the basis of 90 per cent neutralisation for the rise above the minimum basic wage of Rs. 30 fixed under the standardisation scheme."

In the Industrial Court Reporter—June 1950—at page 755, it is said :

"Under the former system when the dearness allowance was based on average wage and the neutralisation allowed was either 96 per cent or 76 per cent in the case of certain employees the neutralisation actually worked out much above 100 per cent. Such a system was obviously not scientific. Under the new system that is now suggested the effort is to neutralise the higher cost of living as far as possible for a worker who is getting the minimum wage. The figure of dearness allowance thus worked out will be the flat rate applicable for all workers and will therefore mean a smaller percentage of relief to those receiving higher wages. It will be obvious that the maximum that may be granted under this system is 100 per cent neutralisation of cost of living on the minimum wage while under the previous system there was fairly large class of workers who got more than 100 per cent neutralisation. In practice there may be circumstances justifying lower neutralisation."

The contention that the dearness allowance should be calculated on the basis of average wage is not, therefore, supported by the latest decisions of the Bombay Industrial Court.

The principle adopted by the Bombay Industrial Court in the decisions quoted above is based upon sound reasons and practical considerations and supports the claim made by the Labour Association in the notice of change for a uniform rate of dearness allowance for all the workers and we, therefore, adopt it in the present case for determining the amount of dearness allowance to be paid to the workers in the Mysore Vegetable Oil Products, Ltd. With regard to the Textile Industries in Bombay, a standardised minimum of Rs. 30 has been fixed as the basic wage and Rs. 28 for Ahmedabad. Lower rates have been fixed for Sholapur and certain other places and the dearness allowance was based upon the minima stated above.

In the case of vegetable oil industries standardised minimum wage has not been fixed.

In the present case, the minimum basic wage paid to the workers in the year 1939 was Re. 0-5-0 for unskilled workers and in 1950 Re. 0-11-0 per day. These minima were fixed by the management itself and not on account of any adjudication. It is, therefore, necessary that for

purposes of calculating the dearness allowance on the principle stated above, this Tribunal should decide upon a minimum wage for the worker. Reference is made to the recommendations of the Central Pay Commission that Rs. 30 per mensem should be the lowest minimum wage that should be fixed for the industrial workers. This minimum wage is for the normal index of 160 and not for 100, as we have pointed out already. It would be Rs. 18-12-0 a month when the normal index is 100 or annas ten per day. Reference is also made to the basic wages paid in several industrial concerns in the State. The fixing of the basic minimum wage is governed by the Minimum Wages Act under which Government fixes the minimum wage *suo moto* or upon the recommendations of a Wage Board. Under that Act the minimum wage is linked up to the workload that a worker has got to turn out. The fixing of such a minimum wage would involve enquiry into the family budget of a worker and various other considerations have also to be taken into account in fixing the minimum wage. We feel that this Tribunal cannot launch on such an enquiry in order to fix the minimum wage. In this connection Mr. Ramachar, learned Advocate for the Labour Association, has requested us to rely upon a report prepared by an assistant of the Labour Commissioner for determining the requirements of a family of a worker. We feel that that report cannot be the basis for fixing the minimum wage of an industrial worker since the report has not, so far as we know, been accepted by the Government as laying down the correct principles on which the family budget was based. We are, therefore, unable to rely upon the report for fixing the minimum wage.

Then the question remains, whether the lowest minimum wage of annas five paid to the workers in this concern in the year 1939, when the index of cost of living stood at 100, is to be taken as the minimum wage for fixing the dearness allowance. If so, the total of wages, *i.e.*, minimum wage and dearness allowance due to a worker would amount to Rs. 24-6-0, when the index stands at 300. We consider, therefore, that annas five cannot be taken as a fair minimum wage. Obviously this is too low and the management has itself considered this too low and has been paying Rs. 42-14-0 a month. Nor can we accept Re. 0-11-0 a day now being paid for

26 working days in the month to unskilled labour as a fair minimum wage since it is not based on any principle. We have already referred to the minimum of Rs. 30 per mensem recommended by the Central Pay Commission for the normal index of 160. It would be Rs. 18-12-0 for a month of 30 days for the normal index of 100 or annas ten a day. We may, therefore, adopt Re. 0-10-0 a day or Rs. 16-4-0 for 26 working days as minimum wage for a normal index of 100 for the purpose of fixing dearness allowance in this case.

With regard to the rise in the index above 100 it was:

302.7 in July 1949
301.6 in August 1949
296.3 in September 1949
299.0 in October 1949
305.0 in November 1949
305.0 in December 1949
301.0 in January, February and March 1950, and
306.0 in April 1950.

The figures, therefore fluctuated round about 300 and we, therefore, take 300 as the index for the purposes of fixing dearness allowance at the time of the notice of demand. Taking annas ten a day as the minimum wage when the cost of living index stood at 100, the total wages including the dearness allowance, a worker has to get would be Rs. 48-12-0 per mensem of twenty-six working days for the cost of living index at 300. Deducting Rs. 17-14-0 which the lowest paid worker in the Mysore Vegetable Oil Products Company is now getting (*vide* Exhibit 26), from Rs. 48-12-0 as wage for 26 days, the dearness allowance would come to Rs. 30-14-0.

For the Labour Association it is urged that the workers in Textile Industry are getting higher rates of dearness allowance and that the workers in this industry also should get the dearness allowance at more or less those rates. So far as the textile industry is concerned it is a well established industry in which large capital has been invested and there is no comparison between the Textile industry and the Oil industry. It was also urged that concerns like the Hindusthan Aircraft, Ltd., and the Telephone Company are also paying higher rates

of dearness allowance. It must be observed that these concerns are connected with the India Government and their scales of wages and dearness allowance cannot be taken for consideration when dealing with a local industry like the present industry. Similarly, the wages and dearness allowance paid in certain commercial concerns such as the Addison and Company, Simpson and Company, and the General Electric Company are brought to our notice for purposes of comparison. With regard to these it must be noted that those concerns are branches established in the Mysore State with their Head Offices in Madras and other places outside Mysore, and they are paying wages and dearness allowance at rates at which their central establishments are being paid. Then it is urged that this very company which has a branch in Madras is paying dearness allowance at the rate of Re. 0-2-6 per point rise above 100. It is pointed out by the Management that these rates are paid in Madras in conformity with the rates paid to the industrial workers in that city. There is much force in this contention.

It is also urged that the Vegetable Oil Product has built up a huge reserve and could, therefore, afford dearness allowance at rates which are paid by other industrial concerns. In answer to this it must be said, as has been urged on behalf of the Company, that the reserves are generally not meant for the purpose of paying the staff but for a different purpose altogether, *viz.*, for replacements of machinery, re-building of the premises, etc.

It is then urged that the Company was making good profits so as to justify the demand made by the Labour Association. It will be seen from Exhibit D Series that the Company made a net profit of 1.31 lakhs in 1945, in 1946, 1.53 lakhs, in 1947, 3.78 lakhs, in 1948, 2.13 lakhs and in 1949, 2.11 lakhs, but in 1950 the profit made was only Rs. 79,624. It is urged on behalf of the company that on account of control introduced on the sale of vanaspati without any control over the raw material, the Company has been put to considerable difficulty. It is also urged that when this Company was the sole concern for manufacturing vegetable oil it was making good profits but, since several other concerns have been started in the Mysore State as also elsewhere for manufacturing the same article, there is keen competition which has, therefore, forced the Company to sell at unremunerative

prices. In fact it is urged that the Company had to stop production on account of accumulation of stocks for nearly four months in the year. It was urged on behalf of the Association that the trading and profit and loss account for the month of June 1950 showing a loss is inconsistent with the statement furnished to the Directors which shows a profit at the end of June 1950. The explanation given by the Management is that the loss shown in the month of June 1950 is due to the fact that the closing stocks at the end of the month were valued at the cost price which is higher than the market price, whereas in the accounts furnished to the Directors it is the reverse, since when the latter statement was prepared, the market price was known but when the former statement was prepared it was not known and the estimate of the closing stocks was that of the General Manager. In our opinion the explanation is not unacceptable.

For the Management it is urged, that the rates of dearness allowance paid by this Company is much more than what the Government Industrial concerns pay and what other similar industries pay in the State. It is true that the scales of dearness allowance paid by the Government is lower than the scales paid in this concern, but it must be noted that Government is not a profit making body and as such there cannot be any comparison with them (*vide* the Indian Working Class Radhakamal Mukerjee). This Company has no doubt been paying a higher rate than the other oil companies in the State both in Bangalore and Davangere as could be seen from Exhibit XIX series. Moreover, it is to be noted that the other oil company in Bangalore has recently been started and the oil companies in Davangere are in the moffusil where the conditions of living may be different and we have no information as to their capacity to pay. But that the other concerns have been paying less dearness allowance will not be a good ground for not paying the workers of this concern at rates which are fair and necessary to be paid to the industrial workers.

It is next urged that any increase over the rates of dearness allowance now paid would place the company at a disadvantage in competition with other oil factories, and therefore, the Company cannot bear any additional burden. We have given full consideration to this aspect

of the Company's case. In this connection we must say that the Company has been fairly considerate in meeting the wants of their workers by paying voluntarily dearness allowance in order to meet the higher cost of living from time to time, as we already stated in the previous paragraphs.

Nevertheless, it is difficult to uphold the plea put forward by the company that its financial position is such that it cannot bear any additional burden. A perusal of the Balance Sheets filed in the case clearly negatives that plea. The Company has not only built up a strong reserve, but has paid very handsome dividends to its shareholders. Furthermore from out of the reserves Bonus shares equal to 50 per cent of the subscribed capital were given free to the shareholders. The assertion that the reserve has been mostly re-invested in the industry does not thus expound the position correctly.

Exhibit D series and Exhibit X are the balance sheets from the year 1945 to 1950.

Exhibit D-1 which is the balance sheet for the year ended 30th June 1948 shows that at an extraordinary general meeting of the shareholders held on 15th November 1947, 30,000 shares of the Company were issued as bonus shares free of cost to the Company's shareholders. The shareholders had thus the benefit of an enhancement of their share money by 50 per cent at no cost, which shows that they had very rich returns for their investments apart from the very handsome dividends the Company has been paying all along.

The earliest balance sheet on the record, Exhibit D-4, for the year ended 30th June 1945 shows payment of a dividend of Rs. 2 per share and that works at 20 per cent free of income-tax. Exhibit D-3 is the balance sheet for the year ended 30th June 1946 which shows that an interim dividend at the rate of Re. 1 and a final dividend at the rate of Re. 1 together with a bonus of Re. 0-8-0 per share were paid. This works at 25 per cent free of income-tax. Similarly Exhibit D-2 for the year ended 30th June 1947 shows that the shareholders got a devidend of 25 per cent free of income-tax. Exhibit D-1 is the balance sheet as at 30th June 1948. That requires a closer scrutiny. It will be remembered that towards

the end of 1947 bonus shares of the value of half of the subscribed share capital were authorised to be allotted free to the shareholders and that resulted in an artificial raising of the capital by 50 per cent. Even so it will be noticed that excluding the interim dividend paid on the original capital which works at Re. 0-12-0 a share, the shareholders got for the year a final dividend of Re. 1 and a bonus of Re. 0-8-0 per share, and it may be noted, that before the end of the accounting year the artificial appreciation of the capital had been given effect to. Exhibit D which is the balance sheet as at 30th June 1949 also shows that the Company was in a very prosperous position. The balance sheet is dated 22nd October 1949, *i.e.*, about two months after the notice of change was issued to the General Manager of the Company by the Labour Association. That shows that a sum of Rs. 56,230-10-0 was distributed as interim dividend in July 1949 (at Re. 0-10-0 per share) and that a final dividend including bonus at Rs. 1-2-0 per share was paid (*i.e.*, 17½ per cent in all) and that, on the appreciated capital as above mentioned. The latest balance sheet Exhibit X for the year ended 30th June 1950 also shows that the Company is in a prosperous position financially, although the dividend has declined to some extent. Even so the return is quite satisfactory as a dividend of Re. 1-2-0 per share free of income-tax was paid on each share which works at 11¼ per cent on the appreciated capital and that cannot be stated to be a discouraging position and this was during the proceedings before the Industrial Tribunal. In the light of these facts it is very difficult indeed for the Company to maintain that the financial position of the Company cannot bear any additional burden by way of dearness allowance. It is but just and equitable that the workmen do get enhanced dearness allowance having regard to the high rise in the cost of living index and more so in view of the strong financial position of the Company, as disclosed by the facts detailed above. It may also be mentioned that certain amenities, which according to the case for the Company are provided to workmen are not of an appreciable value and cannot therefore affect the question. That the profits have of late been showing a tendency to decline cannot, however, be ignored, and in our opinion it may not therefore be justifiable to award the full amount of Rs. 30-14-0 mentioned above.

Having regard to all these circumstances we consider that dearness allowance at a uniform rate of Rs. 30 (rupees thirty only) per worker be paid to all the workmen. The result will be that 69 workmen would get Rs. 345 per mensem or Rs. 4,140 per annum more than what they are now getting and 31 workmen would get Rs. 77-8-0 per mensem or Rs. 930 more per annum. In all, the additional burden on the Company would be Rs. 5,070 per annum and this burden, it may be said without hesitation, the Company can easily bear. On this basis, three workmen would get nothing more than what they are now getting. This is unfortunate, but cannot be helped.

Our award therefore is that a dearness allowance of Rupees thirty (Rs. 30) a month of 26 working days be paid to all workers.

The next issue is Issue No. V, *viz.*,

"From what date is the enhancement of dearness allowance, if any, to be paid?"

The notice of demand was given on the 27th of July 1949 and in that notice, the demand is that the increased rate of dearness allowance should be paid from the 1st of July 1949. We do not see any reason to give effect to our Award from the 1st of July 1949. It would be reasonable to give effect to the Award from the 1st of August 1949. The arrears of dearness allowance payable under the award will be payable in two instalments—the first instalment on the day the Award becomes enforceable and the other within one month thereafter.

A. R. NAGESWARA IYER,
Chairman.

T. SINGARAVELU MUDALIAR,
Member.

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BEFORE THE INDUSTRIAL TRIBUNAL, BANGALORE.

A.C. No. 1 of 1950-51.

The Mysore Vegetable Oil Products Labour Association, Bangalore

vs.

The Mysore Vegetable Oil Products Company, Limited, Bangalore.

LIST OF EXHIBITS ADMITTED ON BEHALF OF THE MANAGEMENT.

Sl. No.	*Exhibit*	*Particulars in brief*	*Date of admission*
1.	I	Letter, dated 12th June 1950 from Government Soap Factory, Bangalore, to the General Manager, Mysore Vegetable Oil Products Company regarding dearness allowance.	8–8–1950
2.	II	Letter, dated 16th June 1950 from Government Porcelain Factory to the Management regarding dearness allowance.	"
3.	III	Letter, dated 10th June 1950 from Mysore Chrome Tanning Company, Ltd., to the Management regarding dearness allowance.	"
4.	IV	Letter, dated 9th June 1950 from Mysore Lamp Works, Ltd., to the Management regarding dearness allowance.	"
5.	V	Letter, dated 5th June 1950 from Mysore Chemicals and Fertilisers, Ltd., to the Management regarding dearness allowance.	"
6.	VI	Letter, dated 5th June 1950 from Mysore Glass & Enamel Works, Ltd., to the Management regarding dearness allowance.	"
7.	VII	Letter, dated 4th June 1950 from Mysore Spun Silk Mills, Ltd., Channapatna to the Management regarding dearness allowance.	"
8	VIII	Letter, dated 6th June 1950 from Mysore Sugar Co., Ltd., to the Management regarding dearness allowance.	"
9.	IX	Letter, dated 17th June 1950 from Chief Inspector of Mines and Explosives, Oorgaum to the Management regarding dearness allowance paid in mining companies, etc.	"

Sl. No.	Exhibit	Particulars in brief	Date of admission
10.	X	Letter, dated 12th June 1950 from Mysore Iron & Steel Works to the Management regarding dearness allowance.	8–8–1950
11.	XI	Enclosure to Exhibit X regarding dearness allowance.	„
12.	XII	Letter, dated 29th July 1950 from Sri Krishnarajendra Mills regarding dearness allowance.	„
13.	XIII	Copy of letter, dated 29th April 1950 from the Management to the Law Secretary to Government, enclosing a copy of the Board's Resolution, dated 26th April 1950.	„
14.	XIV	Directors Report of Mysore Vegetable Oil Products Company for the period ended 30th June 1949. (Balance Sheet).	„
15.	XV	Proceedings of the K.G.F. Minimum Wage Committee, etc.	„
16.	XVI	Statement showing Cost of Living Index figures for Bangalore, K.G.F. and Mysore, from January 1949 to April 1950, filed by the Management.	„
17.	XVII	Verbatim report of the reply of Minister for Food and Agriculture, Government of India, to the debate of Pandit Bhargava's Bill to ban the manufacture and sale of Vanaspati.	„
18.	XVIII	Statements showing rates of wages, dearness allowance (Total emoluments) paid to 10 workers in Mysore Vegetable Oil Products Company from 1939 to 1949.	17–8–1950
19.	XIX	Letter, dated 17th July 1950 from Bramahappa Tavanappanavar, Ltd., to the Management regarding basic wages and dearness allowance.	„
20.	XIX(A)	Letter, dated 15th August 1950 from Bramahappa Tavanappanavar, Ltd., to the Management regarding basic wages and dearness allowance.	„
21.	XIX(B)	Letter, dated 8th August 1950 from Davangere Vanaspati Vegetable Oil Co., Ltd., to the Management regarding dearness allowance.	„

Sl. No.	*Exhibit*	*Particulars in brief*	*Date of admission*
22.	XX	Trading and Profit and Loss Account for June 1950 and for 12 months ended June 1950 of Mysore Vegetable Oil Products Company, Ltd.	17–8–1950
23.	XXI	Trading and Profit and Loss Account for July 1950 of Mysore Vegetable Oil Products Company, Ltd.	,,
24.	XXII	Statement showing Cost of Living Index figures for Bangalore and K.G.F. from March 1942 to end of December 1944.	,,
25.	XXIII	Statement showing the rates of wages of 11 workers in Mysore Vegetable Oil Products Co., Ltd., from 1939 who are still in service.	28–8–1950
26.	XXIV	Wages Bill for June 1949 (original) of 105 workers in Mysore Vegetable Oil Products Co., Ltd.	26–9–1950
27.	XXV	Statement regarding Trading and Profit and Loss Account for June 1950 and for 12 months ending June 1950.	,,
28.	XXVI	Statement of minimum rates of wages paid to unskilled and semi-skilled categories of workers.	22–11–1950
29.	XXVII	Statement showing Profit and Loss Account for May 1950 and for 11 months ended May 1950.	,,

A. R. NAGESWARA IYER,

Chairman.

BEFORE THE INDUSTRIAL TRIBUNAL, BANGALORE.

A.C. No. 1 of 1950-51.

The Mysore Vegetable Oil Products Labour Association, Bangalore

vs.

The Mysore Vegetable Oil Products Company, Limited, Bangalore.

LIST OF EXHIBITS ADMITTED ON BEHALF OF MYSORE VEGETABLE OIL PRODUCTS LABOUR ASSOCIATION.

Sl. No.	*Exhibit*	*Particulars in brief*	*Date of admission*
1	A	Letter, dated 5th August 1950 from Messrs. Simpson & Co., to the President, Mysore Vegetable Oil Products Labour Association, regarding dearness allowance.	8–8–1950
2	B	Letter, dated 5th August 1950 from Addison & Co., Ltd., Bangalore to the President of the Association, regarding dearness allowance.	,,
3	C	Statement showing the basic wages and dearness allowance paid to daily rated employees from July 1945 to March 1949 in Mysore Vegetable Oil Products.	,,
4	D	Balance sheet of Mysore Vegetable Oil Products, as at 30th June 1949.	,,
5	D1	Balance sheet of Mysore Vegetable Oil Products, as at 30th June 1948.	,,
6	D2	Balance sheet of Mysore Vegetable Oil Products, as at 30th June 1947.	,,
7	D3	Balance sheet of Mysore Vegetable Oil Products, as at 30th June 1946.	,,
8	D4	Balance sheet of Mysore Vegetable Oil Products, as at 30th June 1945.	,,
9	E	Letter, dated 8th August 1950 from G. E.'s office, Bangalore, to the Labour Association, regarding dearness allowance.	17–8–1950

Sl. No.	*Exhibit*	*Particulars in brief*	*Date of admission*
10	F	Letter, dated 9th August 1950 from O.C. 515 Command E.M.E. Workshops to the Labour Association, regarding dearness allowance.	17-8-1950
11	G	Letter, dated 10th August 1950 from Indian Telephone Industries, to the Labour Association, regarding dearness allowance.	,,
12	H	Letter from the Labour Commissioner, Bangalore to the Organiser, I.N.T.U.C., Bangalore, dated 8th August 1950 regarding the information of dearness allowance.	28-8-1950
13	J	Letter, dated 16th August 1950 from H.A.L., to the President of the Mysore Vegetable Oil Products Labour Association, regarding dearness allowance.	,,
		COURT EXHIBIT.	
Exhibit X		Balance sheet of Mysore Vegetable Oil Products, as at 30th June 1950.	5-3-1951

A. R. NAGESWARA IYER,

Chairman.

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